

Title 22: HEALTH AND WELFARE
Chapter 1603: CONTROLLED SUBSTANCES PRESCRIPTION
MONITORING HEADING: PL 2003, c. 483, §1 (new)

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Maine Revised Statutes
Title 22: HEALTH AND WELFARE
Chapter 1603: CONTROLLED SUBSTANCES PRESCRIPTION
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§7245. LEGISLATIVE INTENT

It is the intent of the Legislature that the prescription monitoring program established pursuant to this chapter serve as a means to promote the public health and welfare and to detect and prevent substance abuse. This chapter is not intended to interfere with the legitimate medical use of controlled substances. [2003 , c. 483, §1 (NEW) .]

SECTION HISTORY
2003, c. 483, §1 (NEW) .

§7246. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2003, c. 483, §1 (NEW) .]

1. Controlled substance. "Controlled substance" means a controlled substance included in schedules II, III or IV of 21 United States Code, Section 812 or 21 Code of Federal Regulations, Section 1308.

[2003, c. 483, §1 (NEW) .]

2. Dispenser. "Dispenser" means a pharmacist who is licensed or registered under Title 32 or a licensed health care professional with authority to dispense or administer prescription drugs.

[2003, c. 483, §1 (NEW) .]

3. Fund. "Fund" means the Controlled Substances Prescription Monitoring Program Fund established in section 7247.

[2003, c. 483, §1 (NEW) .]

4. Office.

[2011, c. 657, Pt. AA, §65 (RP) .]

5. Prescriber. "Prescriber" means a licensed health care professional with authority to prescribe controlled substances.

[2003, c. 483, §1 (NEW) .]

6. Prescription monitoring information. "Prescription monitoring information" means information submitted to and maintained by the program.

[2003, c. 483, §1 (NEW) .]

7. Program. "Program" means the Controlled Substances Prescription Monitoring Program established under section 7248.

[2003, c. 483, §1 (NEW) .]

SECTION HISTORY

2003, c. 483, §1 (NEW). 2003, c. 689, §B6 (REV). 2011, c. 657, Pt. AA, §65 (AMD).

§7247. CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM FUND

The Controlled Substances Prescription Monitoring Program Fund is established within the department to be used by the commissioner to fund or assist in funding the program. Any balance in the fund does not lapse but is carried forward to be expended for the same purposes in succeeding fiscal years. The fund must be deposited with and maintained and administered by the department. The commissioner may accept funds into the fund from any source, public or private, including grants or contributions of money or other things of value, that the commissioner determines necessary to carry out the purposes of this chapter. Money received by the department to establish and maintain the program must be used for the expenses of administering this chapter. [2011, c. 657, Pt. AA, §66 (AMD).]

SECTION HISTORY

2003, c. 483, §1 (NEW). 2011, c. 380, Pt. WW, §1 (AMD). 2011, c. 657, Pt. AA, §66 (AMD).

§7248. CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM

1. Establishment of monitoring program. Contingent upon the receipt of funds pursuant to section 7247 sufficient to carry out the purposes of this chapter, the Controlled Substances Prescription Monitoring Program is established. No later than January 2, 2004, to implement the program, the department shall establish an electronic system for monitoring any controlled substance that is dispensed to a person in the State by a dispenser.

[2011, c. 657, Pt. AA, §67 (AMD) .]

2. Contract for services. The department may contract with a vendor to establish and maintain the program pursuant to rules adopted by the department.

[2011, c. 657, Pt. AA, §67 (AMD) .]

3. Information available. The program must rapidly provide information in an electronic format to prescribers and dispensers.

[2003, c. 483, §1 (NEW) .]

SECTION HISTORY

2003, c. 483, §1 (NEW). 2011, c. 657, Pt. AA, §67 (AMD).

§7249. REPORTING OF PRESCRIPTION MONITORING INFORMATION

1. Information required. Each dispenser shall submit to the department, by electronic means or other format specified in a waiver granted by the department, specific items of information regarding dispensed controlled substances determined by the office from the following list:

- A. The dispenser identification number; [2003, c. 483, §1 (NEW).]
 - B. The date the prescription was filled; [2003, c. 483, §1 (NEW).]
 - C. The prescription number; [2003, c. 483, §1 (NEW).]
 - D. Whether the prescription is new or is a refill; [2003, c. 483, §1 (NEW).]
 - E. The National Drug Code (NDC) for the drug dispensed; [2003, c. 483, §1 (NEW).]
 - F. The quantity dispensed; [2003, c. 483, §1 (NEW).]
 - G. The dosage; [2003, c. 483, §1 (NEW).]
 - H. The patient identification number; [2003, c. 483, §1 (NEW).]
 - I. The patient name; [2003, c. 483, §1 (NEW).]
 - J. The patient address; [2003, c. 483, §1 (NEW).]
 - K. The patient date of birth; [2003, c. 483, §1 (NEW).]
 - L. The prescriber identification number; [2003, c. 483, §1 (NEW).]
 - M. The date the prescription was issued by the prescriber; and [2003, c. 483, §1 (NEW).]
 - N. The department-issued serial number if the department chooses to establish a serial prescription system. [2011, c. 657, Pt. AA, §68 (AMD).]
- [2011, c. 657, Pt. AA, §68 (AMD) .]

2. Frequency. Each dispenser shall submit the information required under subsection 1 as frequently as specified by the department.

[2011, c. 657, Pt. AA, §68 (AMD) .]

3. Waiver. The department may grant a waiver of the electronic submission requirement under subsection 1 to any dispenser for good cause, including financial hardship, as determined by the department. The waiver must state the format and frequency with which the dispenser is required to submit the required information.

[2011, c. 657, Pt. AA, §68 (AMD) .]

4. Immunity from liability. A dispenser is immune from liability for disclosure of information if the disclosure was made pursuant to and in accordance with this chapter.

[2003, c. 483, §1 (NEW) .]

5. Participation requirements.

[2013, c. 587, §1 (RP) .]

SECTION HISTORY

2003, c. 483, §1 (NEW). 2011, c. 477, Pt. K, §1 (AMD). 2011, c. 657, Pt. AA, §68 (AMD). 2013, c. 587, §1 (AMD).

§7250. ACCESS TO PRESCRIPTION MONITORING INFORMATION AND CONFIDENTIALITY

1. Confidentiality. Except as provided in this section, prescription monitoring information submitted to the department is confidential and is not a public record as defined in Title 1, section 402, subsection 3.

[2011, c. 657, Pt. AA, §69 (AMD) .]

2. Review of information. If the prescription monitoring information surpasses thresholds as established by the department, the department shall notify the prescriber, the dispenser and, if the department determines it to be necessary, the professional licensing entity and provide all relevant prescription monitoring information to those persons and entities through an established letter of notification.

[2011, c. 657, Pt. AA, §69 (AMD) .]

3. Permissible disclosure of information. The department may provide prescription monitoring information for public research, policy or education purposes as long as all information reasonably likely to reveal the patient or other person who is the subject of the information has been removed.

[2011, c. 657, Pt. AA, §69 (AMD) .]

4. Access to information. The following persons may access prescription monitoring information:

A. A prescriber, insofar as the information relates to a patient under the prescriber's care; [2003, c. 483, §1 (NEW) .]

B. A dispenser, insofar as the information relates to a customer of the dispenser seeking to have a prescription filled; [2003, c. 483, §1 (NEW) .]

C. The executive director, or a board investigator as designated by each board, of the state boards of licensure of podiatric medicine, dentistry, pharmacy, medicine, osteopathy, veterinary medicine, nursing or other boards representing health care disciplines whose licensees are prescribers, as required for an investigation, with reasonable cause; [2003, c. 483, §1 (NEW) .]

D. A patient to whom a prescription is written, insofar as the information relates to that patient; [2009, c. 196, §1 (AMD); 2009, c. 298, §1 (AMD) .]

E. Department personnel or personnel of any vendor or contractor, as necessary for establishing and maintaining the program's electronic system; [2011, c. 657, Pt. AA, §69 (AMD) .]

F. The Office of Chief Medical Examiner for the purpose of conducting an investigation or inquiry into the cause, manner and circumstances of death in a medical examiner case as described in section 3025. Prescription monitoring information in the possession or under the control of the Office of Chief Medical Examiner is confidential and, notwithstanding section 3022, may not be disseminated. Information that is not prescription monitoring information and is separately acquired following access to prescription monitoring information pursuant to this paragraph remains subject to protection or dissemination in accordance with section 3022; [2011, c. 218, §1 (AMD) .]

(Paragraph F as enacted by PL 2009, c. 298, §3 is REALLOCATED TO TITLE 22, SECTION 7250, SUBSECTION 4, PARAGRAPH G)

G. (REALLOCATED FROM T. 22, §7250, sub-§4, ¶F) The office that administers the MaineCare program pursuant to chapter 855 for the purposes of managing the care of its members, monitoring the purchase of controlled substances by its members, avoiding duplicate dispensing of controlled substances and providing treatment pattern data under subsection 6; and [2011, c. 657, Pt. O, §3 (AMD) .]

H. Another state pursuant to subsection 4-A. [2011, c. 218, §3 (NEW).]

[2011, c. 657, Pt. AA, §69 (AMD); 2011, c. 657, Pt. O, §3 (AMD) .]

4-A. Information sharing with other states. The department may provide prescription monitoring information to and receive prescription monitoring information from another state that has prescription monitoring information provisions consistent with this chapter and has entered into a prescription monitoring information sharing agreement with the department. The department may enter into a prescription monitoring information sharing agreement with another state to establish the terms and conditions of prescription monitoring information sharing and interoperability of information systems and to carry out the purposes of this subsection. For purposes of this subsection, "another state" means any state other than Maine and any territory or possession of the United States, but does not include a foreign country.

[2011, c. 657, Pt. AA, §69 (AMD) .]

5. Purge of information. The department shall purge from the program all information that is more than 6 years old.

[2011, c. 657, Pt. AA, §69 (AMD) .]

6. Treatment pattern data. The department may provide to a prescriber who treats a member under the MaineCare program prescription monitoring information on the prescriber and other prescribers that is de-identified as to prescriber and patient and that indicates treatment patterns in comparison among peers. If the department has shared with a prescriber treatment pattern data under this subsection, the department shall allow the prescriber time to align the prescriber's prescribing patterns with the patterns of the peers of the prescriber. The department may take appropriate actions with regard to a prescriber who is unable to achieve treatment pattern alignment as provided in this subsection.

[2011, c. 657, Pt. O, §4 (NEW) .]

SECTION HISTORY

2003, c. 483, §1 (NEW). RR 2009, c. 1, §§14-16 (COR). 2009, c. 196, §§1-3 (AMD). 2009, c. 298, §§1-3 (AMD). 2011, c. 218, §§1-4 (AMD). 2011, c. 657, Pt. AA, §69 (AMD). 2011, c. 657, Pt. O, §§3, 4 (AMD).

§7251. UNLAWFUL ACTS AND PENALTIES

1. Failure to submit information. A dispenser who knowingly fails to submit prescription monitoring information to the department as required by this chapter is subject to discipline by the Maine Board of Pharmacy pursuant to Title 32, chapter 117, subchapter 4 or by the applicable professional licensing entity.

[2011, c. 657, Pt. AA, §70 (AMD) .]

2. Unlawful disclosure or use of information. A person who intentionally or knowingly uses or discloses prescription monitoring information in violation of this chapter, unless otherwise authorized by law, is guilty of a Class C crime.

[2003, c. 483, §1 (NEW) .]

SECTION HISTORY

2003, c. 483, §1 (NEW). 2011, c. 657, Pt. AA, §70 (AMD).

§7252. RULEMAKING

The department may adopt rules necessary to implement the provisions of this chapter. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 657, Pt. AA, §71 (AMD).]

SECTION HISTORY

2003, c. 483, §1 (NEW). 2011, c. 657, Pt. AA, §71 (AMD).

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